

PLANNING COMMISSION

MINUTES

May 14, 2014

The Planning Commission met in regular session on Wednesday, May 14, 2014, at 8:00 p.m. in the Council Chambers of the Vienna Town Hall, 127 Center Street South, Vienna, Virginia, with Jim Hendricks, Chairman, presiding. The following members were present: David Miller, William "Bill" P. Daly, Jr., Stephen Kenney, Charles "Chuck" Anderson, Walter I. Basnight, and Michael Gelb. Also in attendance and representing the Town Staff were Gregory M. Hembree, AICP, Director of Planning & Zoning, and Jennifer M. Murphy, Board Clerk. David Lanphear and Melvin McCoy are absent.

Roll Call:

Ms. Murphy called roll. Commissioners William Daly, Melvin McCoy, and David Lanphear are absent.

COMMUNICATIONS FROM CITIZENS AND/COMMISSIONERS:

Commissioner Miller stated that he had had the good fortune to spend the afternoon with an astronaut, a retired SR-71 pilot, and a 91 year old World War II pilot at the National Air and Space Museum's Stephen F. Udvar-Hazy Center. He noted that two are residents of the Town of Vienna. Thomas Jones, a retired astronaut flew 43 days in space. He has ridden every orbiter except Challenger. Richard Kline flew a P-38 Lightning aircraft in World War II. He has flown with Charles Lindbergh, Richard Bong who was the most decorated World War II Pilot, and Tommy McGuire who was the second most decorated World War II Pilot. The Third gentleman, Colonel Buz Carpenter has clocked 700 hours flying the SR-71 Blackbird that is on display at the Udvar-Hazy Center. He stated that it was an unbelievable afternoon for him that he wanted to share.

Chairman Hendricks thanked Commissioner Miller for his comments. There being no further communications Chairman Hendricks opened the public hearing.

Public Hearing:

ITEM NO. 1:

Recommendation to the Mayor and Town Council on a final plat for the Andrew Minor Subdivision, a proposed three-lot resubdivision of Fairfax County Tax Map Parcel 38-3 ((3)) 85, and situated in part of Block 22, Windover Heights, located at 130 Pleasant Street NW and in the RS_16, Single-Family Detached Residential zone (recommended new addresses are 301, 303, and 305 Salisbury Lane NW.) Application filed by Anthony Venafo, Smith Engineering, agent for Michael W. Covell, owner.

Greg Hembree stated that the application was last heard on February 26, 2014. It was a fairly detailed review running from 1 ½ to 2 hours in review time. A motion was granted to approve the preliminary plat with waivers from certain public improvements such as street jog and maximum permitted deviation for lot grade for the proposed subdivision. The approval carried with a vote of 7-1. All commissioners voting in favor of the motion except Commissioner Basnight who voted against it. Commissioner McCoy was absent.

Mr. Hembree stated that the staff report from the February 26th meeting stands as a point of reference due to the discussions heard about the geometrics of the proposals. Information and comparisons have been provided between the preliminary plat approval and what is being presented for final plat review. He stated that the subdivision is proposed to be named Andrew Minor who was the first landowner once Salisbury platted the property. Lot 1 has changed from 26,644 square feet to 26,647 square feet. The street will be named Salisbury Lane NW as opposed to Salisbury Place NW. He noted that some minor revisions have been provided for clearing and grading as well as specific language changes as to how each of the trees that are being shown will be preserved. Details are shown on sheet 12 of the submitted plan set. Language has been improved with revisions to the

proposed footprint of the new dwelling for Lot 3. Lot 3 is the one set closest to the parking structure that is located next door. He stated that the applicant tried to ensure that tree #220 could be saved. As was indicated in his staff report he believed that there had been some additional dialogue between the property owner, the engineer, and the adjoining property owner.

Mr. Hembree noted that in terms of staff recommendation to the Planning Commission that the proposal meets all criteria as set forth in Section 17-23 to 26 of the Town Code with the exception of the approved waivers during preliminary plat review heard at the February 26, 2014 Planning Commission Meeting. Additionally, the Commission has been provided with a memorandum from Department of Public Works Deputy Director, Michael Gallagher. All of the items taken together staff believes that the proposed plan meets the Town of Vienna's code criteria and therefore it be recommended for approval.

Chairman Hendricks thanked Mr. Hembree for the overview. He invited the applicant forward to testify.

Anthony Venafrò of Smith Engineering stepped forward to present. Mr. Venafrò stated that they have worked diligently with staff holding a couple of meetings to discuss the storm water management facility. It has been a productive couple of months. In reference to Commissioner Anderson's neighborly concerns he stated that they have been in communication with Fairfax County. They were able to omit the internal street light that was planned for Salsbury Lane NW but they could not remove any of the existing lights. A light will be required at the intersection. He stated that they have visited the site, reviewed the plan and found that it requires an upgrade to the existing fixtures located at Lovers Lane and Church Street NW.

Mr. Venafrò stated in response to Commissioner Anderson's concern for the trees that are located at the corner of his property, they were able to perform a field survey and have determined that the subject trees are located on Commissioner Anderson's property. They have since re-engineered the area running the storm drain out to Church Street NW. He stated that it is their belief that they have minimized any impact upon those trees. Commissioner Anderson asked if the applicant will need access to his property in order to dig the trench. Mr. Venafrò answered no.

Mr. Venafrò stated that at the previous public hearing Mr. Stevens had mentioned concerns. They have been able to accommodate by way of specifying hand grading and construction activities as they relate at the critical root zones of the trees that are located along the common property line. More substantial tree protection fencing has been added, which will be wider than the standard orange mesh fencing. The preliminary footprint has been revised to be more constraining for lot 3. The limits of clearing and grading have been pulled in to protect tree #220. That will help to further buffer the residential and commercial properties. Additionally, concern for the internal street light was mentioned. As that has been removed it is no longer an issue. The last concern had been for the two foot rock wall shown on lot 2. He stated that Mr. Stevens requested that it be left in place. He stated that they are willing to remove it by hand in order to minimize any impact to the critical root zone of the tree that is on Mr. Steven's property. The wall is currently 1 ½ feet tall and falling apart. He stated that it should not be too difficult to remove by hand.

Mr. Venafrò stated that there were some items Mr. Stevens brought to their attention that they could not accommodate because they were either infeasible or not appropriate to the application. He stated that the tree marked #208 and located at the center of the site, it has been determined by their arborist that even with the installation of a wall around the tree it would not survive more than a couple of years. The wall itself will require a big "V" variance. In consideration of those issues they do not feel that it will be feasible to save the tree. They have requested to remove all curb, gutter, and sidewalk along Pleasant Street NW. They have been unable to obtain staff support for a waiver from curb and gutter along the entire street. His client is indifferent to the matter. He would leave it to the Commission to determine.

Mr. Venafrò stated that Mr. Stevens has requested that a development condition be put in place to constrain any future development by future owners of lot 1. He stated that his client could not agree to prevent future development by future homeowners. They could not agree to resolve any upstream drainage issues other than to

provide a connection point and easement at structure 17. Lastly, they have decided not to enter into any kind of maintenance agreement with the adjacent owner to upsize the storm water facility for future development on Mr. Steven's property. Mr. Venafrro asked for questions or comment from the Commissioners.

Commissioner Gelb asked if Mr. Venafrro could elaborate on comments to not upsize drainage for future development. Mr. Venafrro explained that Mr. Stevens requested an increase to the capability of the facility for potential future development on the adjacent property. Commissioner Gelb asked if they were requested to increase the connection so that Mr. Stevens could develop at a later time. Mr. Venafrro answered that it was not at the connection point but rather the treatment facility. The treatment facility is designed to meet current drainage per the current impervious area. Commissioner Anderson asked if Mr. Venafrro was referring to the capacity of the infiltration. Mr. Venafrro answered yes. Commissioner Anderson asked if they were offered any monetary amounts or proffered for an increase. Mr. Venafrro answered no, stating that they did not get that far in their negotiations.

Commissioner Anderson stated with respect to the easement, they have agreed to allow access to tie into the facility at a later time. Mr. Venafrro answered yes, stating that they have granted an easement to the Town to allow access for whatever they feel is necessary. Mr. Hembree explained that it is 38.48 feet in width of easement located at the property line. This allows some latitude for the adjoining property owner to tie into the system. He stated that it is shown on sheet L of the submitted plan set. It is much wider than a typical ten foot storm drain easement. Mr. Venafrro agreed, stating that the additional width provided for more flexibility.

There being no further questions or comment, Mr. Venafrro was seated.

Chairman Hendricks invited public comment from members of the audience.

Tom Stevens, owner of 316 Windover Avenue NW stepped forward to speak. Mr. Stevens thanked the Commission for the opportunity address concerns regarding the proposed subdivision. He stated that they originally commented at previous meetings that they are not opposed to the proposed subdivision if certain modifications could be made and improved upon. Forty thousand dollars later they have had to pay engineers, consultants, arborists, and attorney fees. He stated that they have hired an attorney who has been in contact with the Town's Attorney. They have experienced many frustrations as well as damage to their property. They have recently had to take a tree down. This was a large tree that was damaged due to the storm water problems they experience at their property. He stated that at this point they are opposed to the project. Many waivers and variances have been granted, which they think have been granted for the wrong reasons. One reason for granting a waiver has been to save the old historic house, eliminating the address off of Pleasant Street to create a new front lot. This is at the entrance to the Windover Heights Historic District. He stated that there is no guarantee that a year from now the new owner will not tear down the house and build a new home on the site. He asked what the guarantee is that the old home will be saved a year from now.

Mr. Stevens stated that they would also like to know how the developer is being permitted to change the rear designation for the purpose of determining front yard and rear yard. Another reason given for the excitement over the proposal is that only two additional houses will be built. A majority of the mature trees that are on the property are slated to be cut down and the street does not meet the minimum width for a cul de sac. He noted that a public liability is being created when both turns, right and left, from the new street do not meet site code requirements on Pleasant Street. He stated that it has required variances from street jog, lot grade, and the diminishment of screening along property lines. When they remodeled their home they were required by the Town to take certain actions, which included extensive landscaping to protect the adjoining homeowner down the property line. Now the same standards are not being applied. Every time they pull into their driveway they will be staring fifteen feet over their property line, which the developer is not adequately screening. He stated that they are unable to landscape or screen on their property because their trees and shrubs will die as they have in the past because the Town will not address the storm water problem that travels across their property to the subject property. The Town is requiring an easement to be placed at the back of the subject property and their property for a culvert to catch all of the water that the Town has exacerbated in the twelve years that they have lived there by allowing more development across the street and upstream. He stated that is a violation of the law.

Mr. Stevens stated that he did not believe there is any reason to take the historic landscape wall down that runs along the property line and abuts the major trees labeled #229 and #238. One of the trees is located on his property with the other located just over the subject property. He stated that removing the wall will serve no purpose but it will definitely impact the root structure of the trees. It is located two feet from two major trees. One of the trees is sixty to seventy feet in diameter. The Town was sued when they were renovating their property by the owner of the subject property because they thought that the tree would be killed. They had to pay a tree service to come out and perform a deep root feeding in order to ensure the safety of the tree and make sure that nothing would happen to it. The applicant's initial proposal was to remove the tree. While that has been changed plans to remove the historic wall will interfere with the health of that tree. He stated that the wall is in the same condition that it was in 2000 when they purchased their property. The developer could add dirt to the other side of the wall to further secure it. He would like to see it remain as it will put the trees at a disadvantage.

Mr. Steven stated that they have concerns about the newly designated rear yard of the existing house that now abuts their property. He would like to request that a building condition be placed in the Deed prohibiting existing and future owners from constructing any structure like a pool, patio, shed, or deck in the rear yard. In response to concerns for landowner rights he stated that other properties do not have variances and waivers granted on their properties. It will devalue their home. They should be afforded certain restrictions. He noted that the current owner has not cut the grass all season. They had to call the Town to file a complaint. The Town was able to contact the owner who had the grass cut just prior to the hearing.

Mr. Stevens stated that the Town needs to step up and take the appropriate action for the community by enforcing the saving of as many of the trees as possible. They believe that tree #208 could be saved but it will require some additional money in order to build a wall around it. It will also require money to take that tree down. He asked how much it will cost the Town to take the tree down. He estimated the cost to be \$20,000.00 - \$30,000.00. When you are constructing 2 million dollar homes you can afford to build a \$30,000.00 wall around the base of a tree to save the most magnificent tree on the property. There being no further comment Mr. Stevens thanked the Commission for their time and was seated.

Margaret Haverkamp owner of 303 Windover Avenue NW stepped forward to speak. Mrs. Haverkamp stated that she is sorry to see the Windover Historic District turn into an area of developers rather than an area of historical homes and homes that have tried to conform that that. She did not believe that anyone in the neighborhood liked the proposal. The neighbors should be able to weigh in with their views. There being no further comment Mrs. Haverkamp was seated.

Joan Lillis owner of 313 Windover Avenue NW stepped forward to speak. Mrs. Lillis stated that she will have a direct view of the development across the street from her house. Since the trees have come down she can see all the way to the back parking garage that is on the 301 Complex. She agreed with Mr. Stevens' comments, stating that he had has some good points. They have a vested interest. It would be a shame to take the trees down that are near the wall. The large tree that is slated for removal has been in place for maybe a hundred years or more. Those trees look healthy to her and it would be shame to lose them.

Mrs. Lillis stated with respect to the proposed ingress/egress it did not look very safe issue. There will be approximately eight cars traveling in and out on to Pleasant Street NW. She stated that if it looks like, acts like, and talks like it then it is a pipe stem. How it differs in appearance than function she could not say. She agreed with Mr. Stevens that it is the entrance to the historic district. She shared his concern for what will eventually happen to the historic house. The residents have a lot of time, money, and effort invested in the homes and property. She could not understand how the proposal could pass in its current state. There being no further comment Mrs. Lillis was seated.

Mr. Stevens approached to speak again, stating that he would like to address comments made in reference to subdividing his property and their request to the applicant to increase the capacity of the storm water management facility. They made their request because they have lived with storm water runoff for thirteen years. The Town has allowed storm water to increase running across their property by approving upstream development. During initial

plan review staff was ready to accept the initial plan. He and his engineers asked if the storm water management facility could be sized for the additional upstream water with new divide lines. They were told that it was and later found that it was not. His engineers were able to show staff and the applicant that they needed to increase the size. He stated that it has cost him thousands of dollars over the last twelve years, the time that they have lived at the property, to take down trees and clearing the ones that have come down. This is due to the water being piped across their yard and not under it.

Mr. Stevens stated that when they originally discovered the issue he contacted the Town to ask if it could be corrected. He was willing to pay to pipe it down to Pleasant Street. He stated that since the Town has refused to work with them they requested to tie into the easement that the applicant is being required to install at the back of the property. He has been unable to get a response. When they originally looked at their property for purchase there were four other contracts on it by developers. They purchased the home with the intention of restoring the property. They have space designated to the side to allow for future development. Since the applicant has filed for waivers and variances they decided that they should try to get them to upsize the facility. It will not cost that much more. He stated that he has ongoing health issues so that they do not have any immediate plans to develop their property. They were able to purchase their property paying less than the contracts that were on the property because he was a Vienna boy coming home. He stated that the Town that he grew up in has treated him like crap. There being no further comment Mr. Stevens was seated.

Mrs. Lillis approached to speak again, stating that she would like to add to Mr. Stevens' comments about storm water management. She stated that she knows a lot about storm water management. Her property has a small drain that was installed around 53 years ago. It was meant to take the water that ran from her driveway and the neighbor's house located to her right. At the time her neighbor's house was a split level. The drain now takes on a lot more water than it was originally intended for. The lot's grade on the other side was raised. They were supposed to raise it no more than three feet. She noted that the land used to be level. It is not any more. She believed that the grade was raised much more than three feet. It took the builder more than a year to obtain their occupancy permit because she fought it. This was also the same year that her husband was dying of cancer. She stated that the house has a basement with nine foot ceilings. All of the excavated dirt was placed at the back of the lot; that in addition to eight to ten truckloads of dirt that they brought in for construction. She stated that the overall height of the grade has caused a great deal of water to come on to her property, which was level. Two years later she installed a \$2,000.00 drainage system, which the Town of Vienna should have paid for. During a heavy rain she has had two feet of orange construction water. That is all of the runoff in addition to the two mcmansion's runoff from either side of her runs into that drain and across the road into the Stevens' property. She stated that there are massive amounts of water. She believed that the water also contributed to the issues on Lewis Street. She asked who was managing the store, stating that there should be far more oversight than there currently is with what goes on and how things are managed. In particular to those who live there and are impacted. They have a vested interest in their homes. It is an issue that she has also sought legal counsel over. She stated that she has seen it happen all over town. There being no further comment Mrs. Lillis was seated.

Commissioner Daly stated that he would be recused from the application. He explained that Mr. Stevens recently conferred with one of his law partners, Patrick Via. Prior to that he had Mr. Via inform Mr. Stevens that he serves on the Planning Commission. They may have discussed it with the Town Attorney. He stated that he is recused from any consideration for discussion.

Commissioner Anderson asked if the applicant knew how old the wall is. Mr. Venafrò provided photographs of the wall for the Commission, stating that he could not say how old the wall is. He stated that it does not appear to be in great shape. It is located in the side yard of the new home. Commissioner Anderson stated that a creative architect could blend it in. He asked why the wall needs to be removed. Mr. Venafrò answered that the drainage swale that Mr. Stevens has referenced runs right on the edge of the wall. An inlet is to be installed near the wall. In order to funnel grade into the inlet there needs to be some disturbance in that area. Commissioner Anderson asked if there is so much that they have to get rid of the wall. Mr. Venafrò answered that if they are touching it then they need to get rid of it. They are providing grading to the area. Additional discussion followed.

Commissioner Anderson asked for clarification on the side and rear lot designation. He stated that because the address is changing the front designation is changing based upon the addressed side of the property. Mr. Hembree answered yes, stating that the side-yard setback has a 15 foot minimum required setback. By switching the designated front changes the rear yard designation to a minimum requirement of 35 feet. It will give the Stevens 25 feet of additional setback, providing additional development protection. A deck can be no closer than 25 feet from the rear property line. Additionally, driveway access will be from the new cul de sac street. He stated that is another reason that the front yard is being re-designated. Commissioner Anderson asked for the setback requirement for the new rear yard. Mr. Hembree answered that a rear yard has a 35 foot setback as opposed to the current 15 foot side yard setback.

Commissioner Anderson stated that he is sympathetic to neighborhood concern for tearing down the house. They should be looking at how to protect the Steven's property as much as possible if the site should become a new house in five years. Commissioner Miller stated that it will protect against any future development for the neighbors. Mr. Venafrro stated that if they were to leave the house in its current designation someone could build a two story structure 15 feet from the property line. Per the current proposal any future owner cannot build any closer than the existing building.

Commissioner Basnight asked Mr. Hembree if he recalled the wall since he started working for the Town. Mr. Hembree answered that the stone wall has probably been in existence longer than he has been alive. He has not visited the site very often so that he could not recall the wall in the time that he worked for the Town. The Windover Heights Historic District was created in 1883. It could have been in existence as long as that.

Commissioner Kenney stated that it did not seem as though the wall needed to be removed. It could be hand graded on the uphill side so that water can shed down on either side. If the neighbor is that concerned about the root system then he did not see why the wall shouldn't be keep where it is. With respect to screening he counted seven (7) trees on lot 2 that are located along the property line. He asked how the proposal differentiates from when Mr. Stevens redeveloped his property. Mr. Hembree answered that the Stevens had to go before the Board of Zoning Appeals for two variance requests. Both were heard in 2001. The garage was built at a setback of 20.7 feet with a 35 foot rear yard setback requirement. The Henon's, who owned 130 Pleasant Street NW at the time, were concerned about the additional encroachment upon their rear yard. Part of the condition of the variance approval related to additional landscaping. There was also a dispute about a tree, which may be the one located next to the aforementioned wall. He stated that was the distinction between the applications.

Mr. Hembree stated that the current application must show a 20 percent tree canopy per the subdivision requirement. Commissioner Kenney asked if evergreen trees are ever planted. Mr. Hembree answered that there is a list of approved tree that they can choose from. He noted that the Mayor and Town Council recently approved a tree canopy ordinance requiring canopy coverage for single lot development. That becomes effective May 22, 2014. Part of the approved tree list is currently being generated by the Town's Arborists who work out of the Parks and Recreation Department. Previously it was a list put out by the American Association of Nurserymen. If you picked trees off of that list and met the tree canopy criteria then you have met the requirement. He noted that evergreens are allowed so long as they are on the list. Commissioner Kenney stated that it would seem beneficial to the neighborhood to have evergreen trees planted as they may offer a better screen of the property.

Commissioner Miller stated that they typically steer developers away from evergreen trees because they tend to be quick growing. They grow very tall very fast and then quickly die off in twenty years. They have encouraged moving towards deciduous trees. Mr. Hembree noted that previous commission member Ed Chase would not be in favor of White Pine trees due to their limited life span from disease and blight. Commissioner Anderson agreed, stating they recently had to take down the third White Pine tree on their lot. Additional discussion followed.

Commissioner Anderson asked Mr. Stevens if the application gets approval if Mr. Stevens intends to appeal. Mr. Stevens answered probably, stating that he has hired an attorney. He stated that the water issue that runs across his property needs to be resolved. They cannot screen the new homes because the water that the Town is piping across his property stands on his lot. He agreed with Mrs. Lillis' comments, stating that she is correct that the Town has

allowed three or four properties to be built or remodeled that have adversely effected water divide lines. Drainage from seven to eight properties flows out the drainage pipe Mrs. Lillis reference and is piped across his property. When it rains there is so much water that they cannot walk in the front yard. He stated that the matter will be resolved whether it gets resolved by the Planning Commission or by the Town. It has cost him thousands of dollars. He cannot landscape to hide the house that will be sitting 15 feet from his property line. They recently had to take down another large tree that died due to standing water. The Town should let them hook into the system being installed along his property line because they recognize the issue and how the Town has exacerbated the problem, which is unlawful. He stated that it is going to get resolved or the Town will get sued. He has no choice. He cannot continue to live with the amount of water being piped across his yard.

Mr. Hembree stated that the veracity with which Mr. Stevens mentions the water problem tells him that is the real issue. He asked how a downstream property owner can assist on an up stream water issue. Have the Stevens petitioned the Mayor and Town Council to work to resolve the issue. Mr. Stevens answered yes, stating that he contacted then Mayor Jane Seeman who responded with an email. He was told that she would put it in the budget to take care of the issue. Mr. Hembree asked how long ago that was. Mr. Stevens answered that it was last October or November timeframe. With respect to the wall he stated that it is not that it is a historic wall as it is sitting at the base of two major trees. Removing it will disturb the root system of two major trees. Due to drainage it is not going to stay there. He stated that either the Town is going to correct it or he is going to correct it. He would like to pipe the water underground to where the applicant is being required to install a grate where it will flow to the new storm water management facility. He stated that nobody will advise as to how to hook up to it. He is willing to incur any necessary costs to do it himself. There being no further discussion Mr. Stevens was seated.

Commissioner Miller stated that he does not recall ever asking an applicant to resolve water issues that are upstream from the project site. The Town Code allows them to address issues that are on the property and created from the development. This would set a precedent at least in the twelve years that he has served on the Planning Commission. He can sympathize with the neighbors that have water issues on their property from development. He cannot see how water that is downstream will impact the Stevens' property and how they can ask an applicant to solve water issues upstream from their property.

Mrs. Haverkamp approached to speak again. She stated that the people she bought her house from left her with a sewage problem. She cleaned it up the first time. The second time she contacted the Town who said that they would come and clean it up if it happened again. So long as they took care of the pipes running from the house to the street. Staff had told them that the pipes were from the early 1900's. She asked if they are patching a worn out system. Not because of the design but because of the very basis of its construction. She asked how old the pipes are. There being no further comment Mrs. Haverkamp was seated.

Commissioner Miller asked if they are requiring the applicant to install new piping. Mr. Hembree answered no, stating that they are requiring the applicant to solve two issues. Water currently travels down Pleasant Street NW, which will be picked up in a defined drainage area. The new system will retain enough water to help facilitate the downstream system, which is inadequate. That is the system that travels down Pleasant Street, NW, around Commissioner Anderson's property, and travels across the property of Marco Polo. That is part and parcel why he is able to support the application at all as it solves the existing drainage problems within the public right of way both up and down. While he is not an engineer it is a good idea to note this aspect of the proposal as they move along with the proposal. He stated that he could not speak to how old the current pipes are.

Mr. Hembree stated that ordinances with respect to lot coverage and height have been in existence for 58 years. Commissioner Anderson stated that as a neighbor he is the biggest beneficiary of it in terms of storm water management. When they built their home seventeen years ago they had no storm water issues. The development taking place up stream, the Stevens development being the biggest development, pushed a lot of water on to their property. It was at that time that they started having storm water problems. He stated that the proposal addresses that issue. They currently have a river that runs along the front of their property when it rains. This will help to solve that issue. He sees the applicant going to great lengths trying to deal with upstream storm water issues. The developer is pulling out a pipe that will allow them to tie in. It is up to the applicant, town staff, and Mr. Stevens to

finish that piece of the puzzle. He stated that the applicant is doing much more than they have ever seen past developers provide to tackle a storm water issue. That is why as local homeowner he is very much in favor of the storm water management portion of the proposal.

Commissioner Gelb asked if they could request the Mayor and Town Council to look into the matter. Every time there is a new single lot mcmansion there is the potential issue of additional water. It should be an action that is separate from the application.

Michael Gallagher, Deputy Director for the Department of Public Works stepped forward to speak. Mr. Gallagher stated that the Town Council is in the process of adopting storm water management requirements for single family development. The Town Council has wanted to do something of this nature for many years. New State Code provisions now allow localities to place requirements on single family infill development. Mr. Hembree stated that the ordinance passed and will become effective July 1, 2014.

Commissioner Miller stated that the Commission made recommendation and discussed matter at the time. They agreed that the lion's share of development taking place in the Town is not subdivision development. It is with single family infill development. He was glad to see both new ordinance adoptions with respect to tree canopy and storm water management requirements. There being no further comment Mr. Gallagher was seated.

Mr. Stevens approached to speak again. Mr. Stevens stated that he did not understand Commissioner Miller's comments with respect to not ever requiring developers to correct upstream development runoff. That is what is happening with the subject property. They are being required to install a massive storm water management facility for all the properties that are upstream. Additional discussion followed.

Commissioner Anderson asked if the facility has been designed to deal with upstream issues from the other properties. Mr. Hembree stated per sheet 4B of 12 on the plan submittal there is a drainage area that is 3.92 acres in size. He stated that all of the water being picked up is what is out in the public right of way. It is not solving any drainage on a specific parcel. It is essentially what is flowing off the parcels into the public right of way. The Town is asking the applicant to do more because of the known downstream issue. They wanted to try to solve it in two different matters. He agreed with Commissioner Anderson, stating that they have never pushed it to this extent.

Commissioner Anderson asked Mr. Venafrò if they will be willing to retain the wall. Mr. Venafrò stated that there needs to be fill in the area to direct drainage into the proposed inlet. Additional discussion followed and was determined that the wall could be buried.

Commissioner Miller stated that he is very sympathetic to the surrounding neighbors of the subject property. The applicant and the Town have done as good of a job that they possibly can to alleviate as many of the issues Mr. Stevens has brought before them. He appreciated the fact that Mr. Stevens has spent his own money to bring those issues forward. The developer and applicant have done a good job to try to address those issues. He noted that there are landowner rights afforded in the Commonwealth of Virginia. Whether they like them or not they are the rights of land owners. Whether they agree with them or not they are the rights afforded as land owners. A brief discussion followed.

Commissioner Basnight stated that while the subdivision could be approved any future property owners could still take the historic house down. Mr. Hembree agreed, stating that they will also have to undergo the review process by the Windover Heights Board of Review. Commissioner Basnight stated that any application is also subject to the laws of the Commonwealth. He stated that he is concerned that the proposal brought forward to save the original home is so that they can obtain approval of a smaller cul de sac. As far as he is concerned it is a pipe-stem.

Commissioner Gelb agreed that the house could come down at some point as would be the land owner's right. It is also his understanding that if the plan is rejected the applicant could, by right, design a four lot development without waivers. For whatever reason, whether to save the house or for how long, it seemed that they can have three houses under the current plan. For a period of time this includes the historic home. They can also have an application before them for four new houses. He agreed with Mrs. Lillis' comments that at one time the house and

lot were the jewel of the neighborhood. If he could have his way it would remain that way but there are property and landowner rights.

Commissioner Miller stated that while they are saving the house it is also a less intensive development than could be designed by right. As a citizen of the Town and per their charge in representing those citizens that is why he can support the proposal. It maintains the residential nature of the Town. To him the proposal is a far less intensive development. This affords a lot more green space than what could be done by right. He would assume that a by right law suit has a pretty good chance of winning. Commissioner Basnight stated that he understands however, he did not believe that the house would last a year. Additional discussion followed.

There being no further discussion a motion was in order.

Commissioner Kenney made a motion that a recommendation be made to the Mayor and Town Council on approval for a final plat for the Andrew Minor Subdivision, for a proposed three-lot resubdivision of Fairfax County Tax Map Parcel 38-3 ((3)) 85, and situated in part of Block 22, Windover Heights, located at 130 Pleasant Street NW and in the RS-16, Single-Family Detached Residential zone to include the waivers with the one exception that the applicant will maintain the existing historic stone wall that is adjacent to 316 Windover Avenue NW, as best possible.

Commissioner Miller stated that he will vote in favor of the motion. This is not because he likes all aspects of the proposal. He would prefer that the property not get developed at all and that original single house would remain in perpetuity. That is also his feeling about many of the other properties in Town that get subdivided. He stated that it is not the Commission's charge to let their personal feelings for a location or a size of development get in the way. They are charged in representing the citizens of the Town on applications that come before them. The application is for less intensive development than could be proposed by right.

Commissioner Basnight agreed with Commissioner Miller's statements. He stated that it is essentially good for the Town. He appreciated everyone's point of view in the discussions.

There being no discussion Chairman Hendricks called the question.

Motion: Kenney
Second: Gelb
Pass: 6-0-1

Abstain: Daly

Minutes:

Commissioner Daly made a motion that the meeting minutes be approved subject to corrections provided to the Clerk for the April 2, 2014 Special Hearing and the April 23, 2014 regularly scheduled meeting.

Motion: Daly
Second: Miller
Pass: 6-0-1

Abstain: Gelb

Commissioner Kenney asked if the Planning Commission could request that the Town look into the water issues testified to by the surrounding neighbors. Mr. Hembree answered that as part of the Chairman's memorandum he could include some language as to the sense of the Planning Commission with respect to careful evaluation on the part of the Mayor and Town Council on what might be done with respect to drainage on Windover Avenue NW.

Commissioner Miller noted that it is not a matter that is specific to the Windover Heights neighborhood. They represent the entire Town. In all of years that he has served on the Planning Commission they constantly hear complaints from residents about the water issues that new development brings. There has not been any type of development to where they do not hear complaints on water issues. Mr. Hembree stated that Mr. Gallagher has indicated the Town now has a tool in place that will be very helpful in that regard.

It was moved to adjourn the regular meeting at 9:35 pm.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Jennifer M. Murphy".

Jennifer M. Murphy
Board Clerk